



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Planning Board Approved Minutes

September 21, 2016

7:00 pm at the Community Development Department

Chairman Paul Gosselin, present

Margaret Crisler, present

Dan Guttman, present

Kathleen DiFruscia (alternate), present

Matt Rounds (alternate), present

Gabe Toubia (alternate), present (seated for Mr. Carpenter)

Ross McLeod, Board of Selectmen representative, excused

Jennifer Simmons, Board of Selectmen alternate- present

Vice Chair Kristi St. Laurent, present

Alan Carpenter, excused

Ruth-Ellen Post, present

Staff:

Dick Gregory, Community Development Administrator

Anitra Brodeur, Minute Taker

Public Hearing

Case 2016-27 Final Open Space Subdivision/WWPD Special Permit Application, 90 London Bridge Road (Lots 20-D-1200 & 20-E-300)

This application has been submitted by Edward N. Herbert Assoc., Inc. on behalf of London Bridge North, Inc. The applicant is proposing a 20-lot open space subdivision with three open space lots for a total of 23 lots. This property is in the Wetland & Watershed Protection District (WWPD), Aquifer, Floodplain and Rural zoning districts. Waivers are requested from Section 601.2.5, 601.3.9 and 602.2.4 of the Subdivision Regulations.

A motion was made by Ms. Post to open the public hearing. Seconded by Mr. Toubia. Vote 7-0. Motion passes.

There was no staff commentary by Mr. Gregory. Mr. Peter Zohdi addressed the Board. Mr. Zohdi reviewed the site walk he had taken with the Board on September 10th, 2016. Mr. Zohdi reviewed the portion of the property that is in the WWPD. He also reviewed the amount of material by cubic yard that would be the result of blasting. Mr. Zohdi reviewed several calculations he had been asked to acquire for the Board: Impact to WWPD (drainage system)=3.21 acres. Total WWPD within building lots= 1.76 acres. Total floodplain=6.1 acres. Open space calculation=59.81 acres. Total open space lots=27.023 acres. Total open space=44.68 acres (above the required 65%).

Ms. Crisler asked how much of the open space is water. Mr. Zohdi stated that the total wetland is 10.036 acres.

Ms. DiFruscia asked about the portion of the property in the flood plain. She asked if any of the lots were in the flood plain. Mr. Zohdi replied that there are none.

Mr. Gregory stated that Mr. Keach's final review is not finished and that is why the Board has not received it. Also, the TRC is available to staff but was not in the packet for the Board to review. The Board acknowledged the fact that there is a lack of adequate staffing support.

Ms. Crisler would like to see a copy of the yield plan, as she was not in attendance when the Board reviewed it. The Board discussed if the yield plan discussion could be reopened in light of how many Board members were not able to make that meeting. Chairman Gosselin asked if any of the four board members that were present and voted on the yield plan would like to reopen the case for further discussion. No one replied that they would like to reopen it. The yield plan was then summarized verbally to the Board members in order to explain the premise on which the vote to accept the yield plan was based. The summary is as follows:

- In the original yield plan, there were 21 proposed house lots.
- Mr. Keach recommended 18 house lots on the length of the road.
- The modified plan proposed 20 houses and 3 open space lots.
- The length of the road was modified, hence, the Board voted to accept 20 lots instead of the recommended 18 from Mr. Keach.

Board members questioned the completeness of the plan submittal due to the lack of input of the Town's experts. (i.e. Mr. Keach's memo, TRC memo) Mr. Gregory stated that the plan submittal is complete. Some of staff's review is not complete. Further, the work from the Town's reviewers is not part of the plan and is not required to make the plan complete.

Attorney John Cronin addressed the Board. Mr. Logan, his client, is interested in creating a trail system through his property that abuts town property. He is interested in allowing ice-skating on the water in the open space portion of the property. Attorney Cronin would like to see discussion of the yield plan cease until it was decided if the Board takes a vote to reopen.

Chairman Gosselin reviewed, for Board members who were not in attendance, why a 4-member board approved the yield plan on the evening it was presented. He is not interested in further discussion at this time.

Vice Chair Laurent did discuss her observations during the site walk and how her concerns were allayed about the yield plan. The steep slope is at the beginning of the road, not where the proposed homes would be built.

Ms. Crisler stated that in the 20 years she has been on the Planning Board, a completed application includes written reports from police, fire, traffic, Conservation Commission, the TRC report and Mr. Keach's final report. Without these documents, there is insufficient information for the Board to make a decision. Ms. Crisler further commented that merely accepting the applicant's word as to what these documents will contain is insufficient. Mr. Zohdi responded that he has received feedback from these parties. As an example, Mr. Zohdi explained that the width had been altered from 26 feet to 22 feet at the recommendation of the town's engineer.

Mr. Zohdi reviewed the efforts he had made to comply with the town's request. He would like a conditional approval pending Mr. Keach's report.

In agreement with Ms. Crisler, several Board members would like to see the documentation requested: TRC report, police and fire input, Mr. Keach's report and input from Conservation Commission regarding the plan and trails.

Attorney Cronin would like to see the trails discussion and the ice skating discussion off the table this evening as it complicated the issue.

Mr. Dave Curto is the Conservation Commission liaison mentioned by Mr. Zohdi and Mr. Guttman regarding: GPS tracking of the trails, the laying of the trail as an easement and a member of the Conservation Commission.

Board members mentioned that they do not think Mr. Zohdi's approval should hinge upon paperwork that has yet to be obtained or filed by the town. The applicant has complied with all requests set forth by the town.

Chairman Gosselin opened and closed the discussion to the public at 7:49pm.

Ms. Crisler stated that the hearing should be continued to allow the missing documentation to be completed and reviewed by the Board. She further stated that it would be a dereliction of duty not to review the relevant documentation in order to make an informed decision. She inquired about a suitable time for this to occur and Chairman Gosselin and Mr. Gregory thought that the October 5th meeting would be an acceptable date.

A motion was made by Ms. Crisler to continue the hearing for Case 2016-27 until October 5th, 2016 at 7pm. Seconded by Mr. Guttman. Vote 3-4. Motion fails. Chairman Gosselin, Mr. Toubia, Vice Chair St. Laurent, and Ms. Simmons opposed.

A motion was made by Vice Chair St. Laurent to provide a conditional approval for Case 2016-27 as presented with the condition that Mr. Keach's review deems the project acceptable as well as the TRC review. Approval is contingent upon any concerns raised in the Keach memo and the applicant complying with these concerns and conditions. Seconded by Mr. Toubia.

The motion was withdrawn to address the waivers.

Discussion

Ms. Post asked about the waivers.

A motion was made by Ms. Post to grant the waiver for Section 601.3.9 of the Subdivision Regulations to allow signature and stamp on mylars only. Seconded by Mr. Toubia. 6-1-0. Ms. Crisler opposed. She would like the recommendation of professionals to make determinations on such matters.

A motion was made by Ms. Post to grant a waiver for Section 602.2.4 of the Subdivision Regulations regarding design of cul-de-sacs based on the provision of future connectivity to the cul-de-sac as shown. Mr. Toubia Seconded. Vote 5-1-1. Ms. Crisler opposed. Mr. Guttman abstained. Ms. Crisler's reason is the same.

A motion was made by Vice Chair St. Laurent to provide a conditional approval as presented with the condition that Mr. Keach's review deems the project acceptable as well as the TRC review. Approval is contingent upon any concerns raised in the Keach memo and the applicant complying with these concerns and conditions. Seconded by Mr. Toubia.

Discussion

Ms. Post stated the Board relies on the reports very heavily. She does not feel as if she has done her due diligence without all reports.

Vice Chair St. Laurent stated that all necessary parties have reviewed the case.

Mr. Guttman is concerned about the precedent about giving conditional approval and not reopening the yield plan after the site walk.

Ms. Crisler is not faulting Mr. Gregory. She wishes the open positions in the Community Development Department to be filled by the Board of Selectmen so Mr. Gregory can get some much-needed assistance. She is not faulting the applicant either. She hopes the Board of Selectmen will move swiftly.

Chairman Gosselin did reference the TRC report, even though it was omitted from the packet. The only suggestion on the TRC report is regarding road width. Also, Vice Chair St. Laurent has added the stipulation regarding the report. Additionally, the town consultant report is not part of a complete application.

Vote 4-3. Motion passes. Ms. Crisler, Ms. Post and Mr. Guttman opposed. Those opposed feel as if they have expressed their reasons.

Mr. Zohdi also brought up the waiver for a WWPD Special Permit. Mr. Gregory stated that one of the memos from Mr. Keach addressed the issue.

Ms. Crisler stated that the Board does not have information to make a decision. Ms. Post asked if there were pictures available for the Board from the applicant. The Board could not recall if they had seen the necessary pictures previously. Board members stated they need to have necessary paperwork.

A motion was made by Ms. Post to postpone the applicant's request for a Special Permit for WWPD until the Board can review all necessary paperwork; it will be continued until October 5th. Seconded by Mr. Guttman. Vote 5-2. Motion passes. Mr. Gosselin and Mr. Toubia opposed.

Case 2016-24: Preliminary Major Site Plan/Minor Subdivision Application (Lots 11-A-570 and 11-A-580), 1 North Lowell Road and 21 Indian Rock Road

This application has been submitted by Joseph Maynard, of Benchmark Engineering, Inc., on behalf of Mesiti Indian Rock Road, LLC & Windham Lowell Road Development, LLC. The applicant is proposing to extend Eastwood Drive to allow access to six 12-unit apartment buildings and to do

a lot line adjustment to create a vacant lot at the intersection of North Lowell Road and Indian Rock Road.

Chairman Gosselin stated there was some clarification needed from the applicant. The Mesiti family purchased the property over 10 years ago. A variance was requested and denied in its original form earlier this year. Mr. Maynard has both plans, one for the detached units and one for apartment units. Chairman Gosselin asked which plan the applicant would like to move forward with this. Mr. Maynard stated that the applicant is willing to go forward with whichever project the Board would be more amenable to. It is normal market rate housing, not elderly housing. There is no lot-sizing requirement. The lots require 50 feet of frontage or conditional use permit with easements granted in order to get to a Class 5 road. There would be 35-37 houses. There is no yield plan required in this zone. The average size of the lot is 5-7,000 square feet. Each home is approximately 2,500-3,000 square feet.

Mr. Maynard discussed grading in relation to why the entrance to the complex was through Eastwood Road and not North Lowell Road. There are grading and slope issues with the road. Mr. Maynard discussed some of his options around grading and road access. Ms. Crisler does not think the conventional concerns around road access work in such a populated plan.

Mr. Guttman read the uses of the Village Center District. He asked how the plan relates to the intent of the ordinance that the voters voted on. Mr. Maynard stated that the Village Center District allows for a multitude of uses, one of which is residential use with walk-able access to other areas of the district. The Board discussed the walkability aspects of the properties. Chairman Gosselin mentioned water access. Mr. Maynard stated that the wells have been drilled and have been through community testing. He stated they are more than sufficient for what they need. A community well project would not be feasible at this time. Mr. Maynard stated that he has enough room for the radius of the wells needed.

Ms. Difruscia asked about the density of the project. She asked what the unique aspects of the project would be that would fit the spirit of the ordinance. There are also Site Plan Regulations and Design Regulations to comply with.

Chairman Gosselin reminded the audience and the Board that this is a Preliminary Discussion. There are no decisions being made this evening, only recommendations.

Vice Chair St. Laurent discussed the connectivity of the properties and what a few of the village center scenarios could look like. Mr. Maynard stated the road is level with the height of the houses. There would likely be a buffer between town hall and the walk out basements.

Chairman Gosselin opened the discussion to the public at 8:47pm.

(Note: Please let me, the minute taker, know of any misspelled names or wrong intent in this section. I have done my best to summarize the thoughts and opinions of the residents.)

Mr. Pradeep Behl, 5 Eastwood Road addressed the Board. He is concerned about the amount of traffic on Eastwood and Hardwood Road. He referenced a statement he had prepared for the Board. He asked that the town allow access to North Lowell Road to alleviate traffic in the neighborhood. Additionally, the current residents have concern around water. Some wells in the area are stressed or have run dry.

Mr. Travis Wilkins, 6 Eastwood Road addressed the Board. He is an abutter. He would like to discuss data points. He stated that the easement that is meant to alleviate traffic would be a hardship for the people who currently live here. He stated that the wells have been drilled for the proposed property but they have not been tested. Mr. Wilkins submitted a map to articulate his data points. He stated that the proposed property would be backed up to the rural district. The abutters' road is a rural zone. Mr. Wilkins stated that it was not a charming plan; it was a plan that was interested in making money.

Mr. Michael Hurst, 3 Eastwood Road addressed the Board. He reviewed the grading of a road and what is allowable by regulation. He used the GIS town website to obtain the data presented. Mr. Hurst outlined four possible exits that he is presenting based on his understanding of grade and access. He suggested using one of the access roads proposed for emergency purposes only. He stated that there are alternative ways out of the property that are more accommodating of the current neighborhood and residents.

Mr. Rounds asked about the grading on Map 2. Mr. Hurst stated it was just over 5%.

Mrs. Katherine Luthes, 24 Stacey Circle addressed the Board. She stated that her concerns around an increase in traffic in the area were the proposed plan approved.

Mr. Stew Gilbert, 5 Cardinal Road. He has concerns about: water (long terms studies that show we can support our populations), schools (investment in those structures, will developers be required to contribute), voting (he voted on the intent of the ordinance and this plan does not seem to be in compliance with that plan), and an additional concern of traffic was also added.

Marianne T. Morrison, 3 Stacey Circle addressed the Board. Hardwood Road was impacted by: the construction of Windham Terrace, the high school that, when built, increased traffic and the construction of Shaw's which decreased their buffer as well.

Ms. Susan Hoey, 4 Eastwood Road addressed the Board. She agrees with Ms. DiFruscia and Mr. Rounds. The Village Center District is intended to be rural. Residents walk with children and animals on Eastwood Road. She asked what happened to the concept of rural living. On the proposed plan, she stated that police and fire would need to go up around several roads without access from North Lowell Road. Additionally, she did express that the plan would negatively impact the residents that already live here.

Mr. Scott Cousens, 75 Morrison Road addressed the Board. He asked if the developer would drill more wells or go with the wells that have already been drilled.

Ms. Sandra Higgins, 1 Eastwood Road addressed the Board. She mentioned safety as her main concern.

Mr. Bob Coole, 20 Morrison Road addressed the Board. He reiterated the question about whether or not the plan aligns with the spirit and intent of the ordinance. He also asked about a traffic study. Chairman Gosselin stated that, further along in the process, a traffic study would be done.

Mr. David Sheldon, 6 Hardwood Road addressed the Board. He stated that his well has run dry for the first time since he resided here. Mr. Guttman stated that the Planning Board looks for

anecdotal information regarding wells and to please check the paper for the next time they will be looking for statements regarding water and wells.

Mr. Chris Massey, 13 Oriole Road addressed the Board. Hardwood Road can be hazardous in the winter. The ice and slush can cause accidents in the winter with the current rate of traffic. An increase in traffic may exacerbate the situation.

Mr. David Hardjoowito, 16 Hardwood Road addressed the Board. He asked about the school population and how potential new homes would impact the current school population.

Ms. Noreen Bertolino, 5 Hardwood Road addressed the Board. The traffic going down Hardwood is very heavy and she agreed with the previous statements.

Mr. Rick Dolan, 10 Londonderry Road addressed the Board. He stated that the residents of Londonderry Road would likely be exposed to traffic at his end of the road if there were an increase in traffic on Hardwood Road.

Ms. Barb Mills, 16 Stacey Circle addressed the Board. She said she is now able to hear the highway from her home. She stated that the spirit of the ordinance was to have a small gathering place for the residence. She asked where the shops were in this area. She discussed the high school as well in reference to what voters voted for (a small school by her interpretation) and what they got (a large school with many additional features) which the residents must now pay for

Mr. Robert and Ms. Amy Raymond, 4 Cardinal Road addressed the Board. They are in full support of their neighbors. He stated that this is just "bad development" and he does not support this and has the same concerns around well issues. They do strive to conserve water already and they do not wish for the water table to become overly stressed.

Mr. Frank McNally, 18 Hardwood Road addressed the Board. A price cannot be put on the quality of life of himself and his neighbors.

Ms. M.G. Behl, 5 Eastwood Road. She has lived here for 24 years. She is concerned that her road would be the main road, no longer the small quiet road she currently resides on.

Public discussion was closed at 9:35pm.

Chairman Gosselin stated that school concerns should be directed to the School Board. The Planning Board only has authority over the impact fees. There are state regulations around the drilling of wells on private property, meaning, the town cannot tell a landowner that he or she cannot drill a well on his or her property. A traffic study will be done to discuss the impact on surrounding properties and residents. The Board has no authority over what projects will come before the Board first. The road locations were very interesting to Chairman Gosselin; he does think a potential connection to Route 111 would be a logical solution. He opened discussion up to the Board at 9:39pm.

Mr. Rounds stated that he takes exception with multiple plans being offered. Chairman Gosselin clarified that it was decided as recently as this morning that the original plan, not the apartment buildings, was suitable to present to the Board.

Ms. Crisler does not think either plan meets the spirit and intent of the ordinance. There are no amenities to walk to yet. She thinks it is premature to develop the housing before the amenities are put in. She does think that the increase in traffic at the bottom of Hardwood Road would impact the public school as well and be a potential danger to students. The Planning Board cannot say no for no reason. It is the job of the Planning Board to look at the proposals and make decisions.

Mr. Guttman cited the Village Center Ordinance requirements. He reiterated the importance of starting discussions around connectivity between the parcels so the landowners could align roads.

Ms. DiFruscia stated that she agrees with Ms. Crisler; the plan does not agree with the spirit and intent of the ordinance. She is also concerned about safety issues in and out of such a large development. She also returned to the point of interconnectivity between the parcels. She believes that the people in the audience can make a difference.

Ms. Post would like to thank the members of the public for their extraordinary research and work in this project. The intention of the Village Center District is to enhance the town, not to burden it. The single-family homes plan is a "denser" plan by bedroom standards than the apartment building plan would be. There are all the burdens of density without the benefits. She does not see: walkability, mixed use, connectivity, something that functions as a town center. She is only seeing burdens. The connection to the rural district burdens the wrong district. She also mentioned the Master Plan Housing Chapter. She would like to see the benefits of the Village Center District.

Mr. Maynard was invited to address the Board once again. He will need to discuss the Board's concerns with his client to see how he would like to move forward.

Chairman Gosselin allowed one last speaker from the public.

Mr. Karol Krajewski, 14 Hardwood Road. He stated that the plan does not match with how you would think of Windham. He also asked about septic as a concern as well as water. He is in agreement with what others have said.

Mr. Gregory suggested continuing it to a non-date-certain. It can then be reposted when it is rescheduled. Ms. Crisler does not think that can be done. She thinks that the Board can opt to do nothing at this time. It was agreed that the Board does not need to take a vote at this time.

A motion was made by Vice Chair St Laurent to continue business after 10 pm. Seconded by Mr. Toubia. Vote 7-0. Motion passes.

A motion was made by Ms. Crisler to grant a 90-day extension to Advanced Design Construction for the Highclere Subdivision. Seconded by Mr. Guttman. Vote 7-0. Motion passes.

A motion was made by Mr. Guttman to approve the September 7th draft minutes as presented. Seconded by Mr. Toubia. Vote 6-0-1. Motion passes. Ms. Crisler abstained.

Old/New Business

Mr. Carl Dubay addressed the Board. He asked when the Conceptual Discussion for Medicus would be on the agenda. They have been put on for October 5th. The applicant was not informed of the change in date.

A motion was made by Mr. Guttman to adjourn at 10:12pm. Seconded by Mr. Toubia. Vote 7-0. Motion passes.

Approved